

1/5/2016 3:18:06 PM
Chris Daniel - District Clerk Harris County
Envelope No. 8464032
By: Ariana Garibay
Filed: 1/5/2016 3:18:06 PM

CAUSE NO. _____

| | | |
|---------------------------------|---|---------------------------|
| LEONCIO GARCIA, | § | IN THE DISTRICT COURTS OF |
| Plaintiff, | § | |
| | § | |
| V. | § | |
| | § | HARRIS COUNTY, TEXAS |
| WAL-MART STORES, INC. and | § | |
| WAL-MART STORES TEXAS, L.L.C., | § | |
| Individually and D/B/A Wal-Mart | § | |
| Store # 0772, | § | _____ JUDICIAL DISTRICT |
| Defendants. | § | |

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THIS COURT:

LEONCIO GARCIA (hereinafter called "Plaintiff") comes forth to present this complaint against WAL-MART STORES, INC. and WAL-MART STORES TEXAS, L.L.C., individually and doing business as "Wal-Mart Store #0772" (hereinafter called "Defendants"). For cause of action, Plaintiff would show the Court as follows:

DISCOVERY CONTROL PLAN

1. The parties should conduct pre-trial discovery in accordance with the discovery-control plan described in Rule 190.4 of the Texas Rules of Civil Procedure (Level 3).

PLAINTIFF'S COMPETENCY TO SUE

2. Plaintiff is a natural person over the age of twenty-one who resides in Harris County, Texas. He is in every respect competent to assist in the prosecution of this lawsuit.

COURT'S JURISDICTION OVER DEFENDANTS



3. WAL-MART STORES, INC. is a foreign for-profit corporation that was formed in Delaware on or about October 29, 1974. It has been lawfully operating its retail business in Texas ever since.

4. WAL-MART STORES TEXAS, L.L.C. is a foreign limited liability company that was formed in Delaware on or about June 26, 2007. It has been lawfully operating its retail business in Texas ever since.

SERVICE OF PROCESS

5. An authorized process server can perfect service-of-process on WAL-MART STORES, INC. by hand-delivering a copy of this petition, and a citation to appear herein, to WAL-MART STORES, INC.'S registered agent for service in Texas, to wit: CT Corporation System, at the agent's registered office address, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136, or wherever the agent can be found.

6. An authorized process server can perfect service-of-process on WAL-MART STORES TEXAS, L.L.C. by hand-delivering a copy of this petition, and a citation to appear herein, to WAL-MART STORES TEXAS, L.L.C.'S registered agent for service in Texas, to wit: CT Corporation System, at the agent's registered office address, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136, or wherever the agent can be found.

SUBJECT-MATTER JURISDICTION

7. Plaintiff has brought this cause of action to recover bodily-injury damages he suffered while shopping in one of Defendants' retail stores. He is alleging that the

accident and his injuries were proximately caused by the negligence of Defendants' employees acting within the scope of their employment with Defendants, or by an unattended premises defect that exposed Plaintiff to an unreasonable risk of suffering serious harm. Plaintiff's accident-related damages far exceed the Court's minimal jurisdictional limit.

VENUE

8. Venue is proper in Harris County because it is the county in which the accident occurred. Tex. Civ. Prac. & Rem. Code §15.002(a)(1).

CLAIM PURSUANT TO TRCP 47: NOT AN EXPEDITED ACTION

9. Plaintiff is seeking a recovery herein of more than \$200,000.00 but less than \$1,000,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney's fees. Therefore, this is not an "expedited action" as described in Rule 169 of the Texas Rules of Civil Procedure.

THE INCIDENT

10. The accident happened at about 6:30 a.m., on June 9, 2015. Plaintiff arrived at Wal-Mart Store # 0772 to pick up a cup of coffee. The store is located 3506 Highway 6 S., Houston, Texas 77082. Plaintiff was wearing flat rubber-soled shoes, and he was not using a shopping cart as he only intended to grab a cup of coffee.

11. As Plaintiff entered into the store, Plaintiff stepped onto a puddle of clear liquid (presumably water), slipped, and fell awkwardly to the floor. There was at least one

employee standing nearby when the accident occurred, as there is generally a greeter at the store's entrances. Immediately after slipping, an employee came to Plaintiff's aid to help him up.

CAUSE OF ACTION AGAINST DEFENDANTS:
NEGLIGENT EXPOSURE TO UNSAFE CONDITION ON PREMISES

12. At the time of the incident, Plaintiff was on Defendants' premises with Defendants' consent, and pursuant to Defendants' implied invitation. In other words, Plaintiff was Defendants' business invitee at the time of the accident. Defendants owed a duty to Plaintiff to exercise ordinary care in preventing him from being exposed to unreasonably dangerous conditions while he was on the premises. Defendants (through their employees) owed a duty to Plaintiff to timely prevent or eliminate any unsafe conditions caused by a premises defect.

13. Specifically, in this instance, Defendants had a duty to timely and adequately: (a) inspect the floor in the area of the store where the accident occurred and thereby detect that there was a puddle of liquid on the floor; and (b) after having actual or constructive knowledge that the floor was wet and slippery, take measures to either (i) eliminate the known hazard by promptly drying the floor; or (ii) warn customers to "stay clear" of the puddle until a maintenance employee came to dry the floor.

14. Defendants' manager and/or employees had actual or constructive knowledge that a puddle had formed because they were near the place of the incident at the entrance of the store. The employee(s) failed to eliminate the condition or warn Plaintiff

about the condition. Defendants' failure to prevent or eliminate a known dangerously defective condition constituted negligence, as that term is defined in civil law. Furthermore, Defendants' negligence was the proximate cause of the injuries Plaintiff suffered in the accident. Therefore, Defendants are liable to Plaintiff for the totality of his bodily injury damages.

15. PLAINTIFF'S CLAIM FOR DAMAGES

17. As indicated above, Plaintiff suffered several injuries in the accident. These injuries have caused him to suffer---and will very likely continue causing him to suffer--the following damages:

- a. Physical pain & suffering, in the past and future;
- b. Mental anguish, in the past and future;
- c. Physical impairment, in the past and future;
- d. Diminished capacity to enjoy life and society, in the past and future;
- e. Medical expenses, in the past and future; and
- f. Lost earnings, in the past.

DEMAND FOR JURY TRIAL

18. Plaintiff respectfully demands a trial-by-jury herein, and is paying the appropriate jury fee simultaneous to the filing of this original petition.

REQUEST FOR DISCLOSURES

19. Pursuant to Rule 194.3 of the Texas Rules of Civil Procedure, Plaintiff

respectfully requests that, within fifty days of the date on which service-of-process on Defendants is perfected, Defendants disclose the information and/or produce documents outlined in Rule 194.2 (a)-(l) of the Texas Rules of Civil Procedure.

NOTICE OF INTENT TO USE DOCUMENTS PRODUCED
PURSUANT TO TRCP 93.7

20. Pursuant to Texas Rule of Civil Procedure 193.7, Plaintiff intends to use any and all documents Defendants produce herein in response to any discovery requests Plaintiffs serves upon Defendants herein, whether it is at any pre-trial proceeding or at trial.

PRAYER

21. WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that this Court promptly set this matter for trial at the Court's earliest convenience; and, after the trial of this matter, grant the following relief to Plaintiff:

- g. Judgment against each Defendant for compensatory damages;
- h. Pre-judgment and post-judgment interest at the highest rate allowed by law;
- i. Costs of court; and
- j. Any further relief to which Plaintiff may be justly entitled.

[Signature on next page]

Respectfully submitted,

THE LEON LAW FIRM, P.C.,
One Sugar Creek Center Blvd., Suite 980
Sugar Land, Texas 77478
Tel.: (281) 980-4529
Fax: (281) 980-4530

By: /s/ Piero Garcia

Carlos A. Leon --- SBN 00794157

cleon@theleonlawfirm.com

Piero A. Garcia --- SBN 24090112

pgarcia@theleonlawfirm.com

ATTORNEYS FOR PLAINTIFF

COPY OF PLEADING PROVIDED BY PLTD.

CAUSE NO. 201600418

DELIVERED THIS DAY C. 1/27/16

RECEIPT NO.

BY PROFESSIONAL CIVIL PROCESS

TR # 73204588

PLAINTIFF: GARCIA, LEONCIO
 vs.
 DEFENDANT: WAL-MART STORES INC

In The 125th
 Judicial District Court
 of Harris County, Texas
 125TH DISTRICT COURT
 Houston, TX

CITATION

THE STATE OF TEXAS
 County of Harris

TO: WAL-MART STORES INC BY SERVING ITS REGISTERED AGENT CT CORPORATION
 SYSTEM
 OR WHEREVER THE AGENT CAN BE FOUND
 1999 BRYAN STREET SUITE 900 DALLAS TX 75201 - 3136
 Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 5th day of January, 2016, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 7th day of January, 2016, under my hand and seal of said Court.

Issued at request of:
 GARCIA, PIERO ANTONIO
 ONE SUGAR CREEK CENTER BLVD
 SUITE 980
 SUGAR LAND, TX 77478
 Tel: (281) 980-4529
 Bar No.: 24090112



Chris Daniel

CHRIS DANIEL, District Clerk
 Harris County, Texas
 201 Caroline, Houston, Texas 77002
 (P.O. Box 4651, Houston, Texas 77210)

Generated By: DENMON, BRIANNA JANEL 3B5//10277633

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock ____ M., on the _____ day of _____.

Executed at (address) _____ in

_____ County at _____ o'clock ____ M., on the _____ day of _____,

_____, by delivering to _____ defendant, in person, a

true copy of this Citation together with the accompanying _____ copy(ies) of the Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____.

FEE: \$ _____

_____ of _____ County, Texas

Affiant

By _____ Deputy

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____.

Notary Public



CT Corporation

**Service of Process
Transmittal**

01/27/2016

CT Log Number 528537327

TO: Kim Lundy Service of Process, Legal Support Supervisor
Wal-Mart Stores, Inc.
702 SW 8th St MS 215
Bentonville, AR 72716-6209

RE: Process Served in Texas

FOR: Wal-Mart Stores, Inc. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Garcia Leoncio, Pltf. vs. Wal-Mart Stores, Inc. and Wal-Mart Stores Texas, L.L.C., etc., Dfts.

DOCUMENT(S) SERVED: Citation, Original Petition

COURT/AGENCY: 125th Judicial District Court Harris County, TX
Case # 201600418

NATURE OF ACTION: Personal Injury - Slip/Trip and Fall - June 9, 2015 - Wal-Mart Store # 0772 located at 3506 Highway 6 S., Houston, Texas 77082

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 01/27/2016 at 10:40

JURISDICTION SERVED : Texas

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next following the expiration of 20 days after you were served (Document(s) may contain additional answer dates)

ATTORNEY(S) / SENDER(S): Piero Garcia
THE LEON LAW FIRM, P.C.
One Sugar Creek Center Blvd.
Suite 980
Sugar Land, TX 77478
(281) 980-4529

ACTION ITEMS: CT has retained the current log, Retain Date: 01/27/2016, Expected Purge Date: 02/01/2016

Image SOP

Email Notification, Kim Lundy Service of Process ctlawsuits@walmartlegal.com

SIGNED: C T Corporation System
ADDRESS: 1999 Bryan St Ste 900
Dallas, TX 75201-3140
TELEPHONE: 214-932-3601

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Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.